

ASSEMBLY BILL

No. 1414

Introduced by Committee on Natural Resources (Assembly Members Chesbro (Chair), Brownley, Dickinson, Grove, Halderman, Huffman, Monning, and Skinner)

March 15, 2011

An act to amend Sections 4514, 4514.5, 4526, 4526.5, 4527, 4527.5, 4528.5, 4551.5, 4553, 4561, 4562.7, 4583.2, 4583.5, 4584, and 4603, to amend the heading of Article 3 (commencing with Section 4531) of Chapter 8 of Part 2 of Division 4 of, and to repeal Sections 4522, 4522.5, 4532, 4533, 4534, 4536, 4537, 4538, 4539, 4540, 4561.2, and 4561.3 of, the Public Resources Code, and to repeal Section 14 of Chapter 1290 of the Statutes of 1989, relating to forestry.

LEGISLATIVE COUNSEL'S DIGEST

AB 1414, as introduced, Committee on Natural Resources. Forestry: timber harvesting.

(1) The Z'berg-Nejedly Forest Practice Act of 1973, among other things, prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted to, and approved by, the Department of Forestry and Fire Protection.

The act defines "timber operations" as the cutting or removal or both of timber or other solid wood forest products from timberlands for commercial purposes, together with all incidental work, including site preparation that involves disturbances of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988. The act also requires rules and regulations adopted by the Board of Forestry and Fire Protection to apply to the conduct of timber operations

that includes site preparation involving disturbances of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988.

This bill would delete the January 1, 1988, date limitation on the definition of “timber operations.” The bill would also delete the January 1, 1988, date limitation with respect to rules and regulations relating the site preparation work.

(2) The act requires the board to divide the state into not less than 3 districts by taking into account differing physical characteristics, as provided. The act requires district advisory committees to advise the board in the establishment of district forest practice rules to govern timber operations on timberlands within the district.

This bill would repeal and delete provisions relating to the district technical advisory committees.

(3) The act requires a timber owner, defined as a person who owns timberland or cutover land, among other types of land, to file a timber harvesting plan with the department on all or any part of timberland that he or she plans to harvest for timber. The act defines “cutover land” to mean land that has borne a crop of commercial timber from which at least 70% of the merchantable original growth timber stand has been removed by logging or destroyed by fire, among other things.

This bill would repeal the definition of, and delete the reference to, cutover land.

(4) The act requires timberland harvested between January 1, 1974, and the adoption of stocking standards, to be classified as adequately stocked if as a result of stocking that took place following the timber harvest, specified minimum standards are met. The act requires all stocking requirements that were in existence prior to January 1, 1974, to remain in full force and effect for timberland that was harvested prior to that date. The act also classifies areas as acceptably stocked if it contains at least 5 countable trees for each tree that was harvested, if the department had determined that the area was not acceptably stocked prior to any timber harvesting activities that took place between the effective date of the act and the adoption of permanent stocking standards.

The bill would delete and repeal these provisions.

(5) Existing law requires the board to adopt rules for control of timber operations that will result or threaten to result in unreasonable effects on the beneficial uses of the waters of the state. Existing law requires the rules to include rules for, among other things, minimizing the effects

of erosion on watercourses and lakes by doing certain things, including maintenance of installed drainage facilities and soil stabilization treatments on skid trails, roads, and landings, as provided.

The bill would delete the requirement that the board adopt rules relating to minimizing the effects of erosion on watercourses and lakes by maintenance of installed drainage facilities and soil stabilization treatments on skid trails, roads, and landings, as provided.

(6) Existing law authorizes the board to exempt from the act a person engaged in forest management whose activities are limited to certain things, including the cutting, removal, or sale of timber or other solid wood forest products from the species *Taxus brevifolia* (Pacific Yew), as provided.

This bill would delete this authorization.

(7) The bill would make other technical changes to the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4514 of the Public Resources Code is
2 amended to read:

3 4514. ~~No provision of this~~ *This* chapter or ~~any~~ *a* ruling,
4 requirement, or policy of the board is *not* a limitation on ~~any~~ *of*
5 the following:

6 (a) On the power of ~~any~~ *a* city or county or city and county to
7 declare, prohibit, and abate nuisances.

8 (b) On the power of the Attorney General, at the request of the
9 board, or upon his *or her* own motion, to bring an action in the
10 name of the people of the State of California to enjoin ~~any~~ *any* pollution
11 or nuisance.

12 (c) On the power of ~~any~~ *a* state agency in the enforcement or
13 administration of ~~any provision of the law which~~ *that* it is
14 specifically authorized or required to enforce or administer.

15 (d) On the right of ~~any~~ *a* person to maintain at any time ~~any~~ *an*
16 appropriate action for relief against ~~any~~ *a* private nuisance as
17 defined in Part 3 (commencing with Section 3479) of Division 4
18 of the Civil Code or for any other private relief.

19 SEC. 2. Section 4514.5 of the Public Resources Code is
20 amended to read:

1 4514.5. ~~Any~~A person may commence an action on his *or her*
2 own behalf against the board or the department for a writ of
3 mandate pursuant to Chapter 2 (commencing with Section 1084)
4 of Title 1 of Part 3 of the Code of Civil Procedure to compel the
5 board or the department to carry out ~~any~~ a duty imposed upon
6 them under the provisions of this chapter.

7 SEC. 3. Section 4522 of the Public Resources Code is repealed.
8 ~~4522. “Committee” means a district technical advisory~~
9 ~~committee.~~

10 SEC. 4. Section 4522.5 of the Public Resources Code is
11 repealed.

12 ~~4522.5. “Cutover land” means land which has borne a crop of~~
13 ~~commercial timber from which at least 70 percent of the~~
14 ~~merchantable original growth timber stand has been removed by~~
15 ~~logging or destroyed by fire, insects, or tree diseases and which is~~
16 ~~now supporting, or capable of growing, a crop of commercial~~
17 ~~timber or other forest products, and which has not been converted~~
18 ~~to other commercial or agricultural use.~~

19 SEC. 5. Section 4526 of the Public Resources Code is amended
20 to read:

21 4526. “Timberland” means land, other than land owned by the
22 federal government and land designated by the board as
23 experimental forest land, which is available for, and capable of,
24 growing a crop of trees of ~~any~~ a commercial species used to
25 produce lumber and other forest products, including Christmas
26 trees. Commercial species shall be determined by the board on a
27 district basis ~~after consultation with the district committees and~~
28 ~~others.~~

29 SEC. 6. Section 4526.5 of the Public Resources Code is
30 amended to read:

31 4526.5. “Timber operator” means ~~any~~ a person who is engaged
32 in timber operations ~~himself~~ or who contracts with others to
33 conduct ~~such~~ the operations on his *or her* behalf, except a person
34 who is engaged in timber operations as an employee with wages
35 as his *or her* sole compensation.

36 SEC. 7. Section 4527 of the Public Resources Code is amended
37 to read:

38 4527. (a) (1) “Timber operations” means the cutting or
39 removal, or both, of timber or other solid wood forest products,
40 including Christmas trees, from timberlands for commercial

1 purposes, together with all the incidental work, including, but not
2 limited to, construction and maintenance of roads, fuelbreaks,
3 firebreaks, stream crossings, landings, skid trails, and beds for the
4 falling of trees, fire hazard abatement, and site preparation that
5 involves disturbance of soil or burning of vegetation following
6 timber harvesting activities ~~conducted after January 1, 1988~~, but
7 excluding preparatory work such as treemarking, surveying, or
8 roadflagging.

9 (2) “Commercial purposes” includes (A) the cutting or removal
10 of trees that are processed into logs, lumber, or other wood products
11 and offered for sale, barter, exchange, or trade, or (B) the cutting
12 or removal of trees or other forest products during the conversion
13 of timberlands to land uses other than the growing of timber that
14 are subject to Section 4621, including, but not limited to, residential
15 or commercial developments, production of other agricultural
16 crops, recreational developments, ski developments, water
17 development projects, and transportation projects.

18 (b) For purposes of this section, the removal of trees less than
19 16 inches in diameter at breast height from a firebreak or fuelbreak
20 does not constitute “timber operations” if the removal meets all
21 of the following criteria:

22 (1) It is located within 500 feet of the boundary of an urban wild
23 land interface community at high risk of wildfire, as defined on
24 pages 752, et seq. of Number 3 of Volume 66 (January 4, 2001)
25 of the Federal Register, as that definition may be amended from
26 time to time. For purposes of this paragraph, “urban wildland
27 interface community at high risk of wildfire” means an area having
28 one or more structures for every five acres.

29 (2) It is part of a community wildfire protection plan approved
30 by the department or part of a department fire plan.

31 (3) The trees to be removed will not be processed into logs or
32 lumber.

33 (4) The work to be conducted is under a firebreak or fuelbreak
34 project that has been subject to a project-based review pursuant to
35 a negative declaration, mitigated negative declaration, or
36 environmental impact report in compliance with the California
37 Environmental Quality Act (Division 13 (commencing with Section
38 21000)). For projects to be conducted on forested landscapes, as
39 defined in Section 754, the project and the project-based review

1 shall be prepared by or in consultation with a registered
2 professional forester.

3 (5) The removal of surface and ladder fuels is consistent with
4 paragraph (9) of subdivision (k) of Section 4584.

5 SEC. 8. Section 4527.5 of the Public Resources Code is
6 amended to read:

7 4527.5. "Timber owner" means ~~any~~ *a* person who owns
8 commercial timber, timberland, ~~cutover~~ ~~land~~, or timber rights,
9 including Christmas tree rights, on lands of another except a federal
10 agency.

11 SEC. 9. Section 4528.5 of the Public Resources Code is
12 amended to read:

13 4528.5. This chapter does not apply to ~~any~~ *a* person who
14 engages in activities ~~herein~~ regulated *by this chapter*, as an
15 employee, with wages as his *or her* sole compensation.

16 SEC. 10. The heading of Article 3 (commencing with Section
17 4531) of Chapter 8 of Part 2 of Division 4 of the Public Resources
18 Code is amended to read:

19
20 Article 3. Districts ~~and Committees~~

21
22 SEC. 11. Section 4532 of the Public Resources Code is
23 repealed.

24 ~~4532. Each committee shall consist of nine members, and all~~
25 ~~shall represent the general public interest.~~

26 SEC. 12. Section 4533 of the Public Resources Code is
27 repealed.

28 ~~4533. All members shall be appointed on the basis of their~~
29 ~~educational and professional qualifications and their general~~
30 ~~knowledge of, and interest and experience in, ecology, soil science,~~
31 ~~watershed hydrology, range management, silviculture and forestry,~~
32 ~~forest recreation, forest landscape architecture, forest products~~
33 ~~manufacture, forest industry economics, or fish and wildlife habitat.~~

34 SEC. 13. Section 4534 of the Public Resources Code is
35 repealed.

36 ~~4534. Five members of the committee shall be selected from~~
37 ~~the general public, three members shall be selected from the forest~~
38 ~~products industry, and one member shall be selected from the range~~
39 ~~livestock industry. At no time shall a majority of the members,~~
40 ~~nor any of the members selected from the general public, be~~

1 persons with a direct personal financial interest, within the meaning
2 of Section 1120 of the Government Code, in timberlands.

3 SEC. 14. Section 4536 of the Public Resources Code is
4 repealed.

5 ~~4536. The committees shall be continuing bodies, and vacancies~~
6 ~~shall be filled in the same manner as original appointments are~~
7 ~~made. An appointment to a vacancy on a committee occurring~~
8 ~~before the expiration of a term shall be for the remainder of that~~
9 ~~term, and the person appointed shall be appointed from the~~
10 ~~appropriate group for the vacant seat.~~

11 SEC. 15. Section 4537 of the Public Resources Code is
12 repealed.

13 ~~4537. The committees shall meet at least once each year, in~~
14 ~~January, and at other times as necessary. All meetings of the~~
15 ~~committee shall be open to the public, and notice of such meetings~~
16 ~~shall be provided 10 days in advance to any person who requests~~
17 ~~such notice in writing; provided, that meetings may be held with~~
18 ~~24-hour notice when such meetings are necessary to discuss~~
19 ~~unforeseen emergency conditions as may be provided by the board~~
20 ~~in regulations adopted pertaining hereto.~~

21 SEC. 16. Section 4538 of the Public Resources Code is
22 repealed.

23 ~~4538. An employee of the department shall be designated by~~
24 ~~the board to serve as secretary of each district committee and shall~~
25 ~~meet with and take part in all deliberations of the committee, but~~
26 ~~shall vote only in the case of a tie.~~

27 SEC. 17. Section 4539 of the Public Resources Code is
28 repealed.

29 ~~4539. The appointive members of the committee shall receive~~
30 ~~no compensation for their services but shall be entitled to their~~
31 ~~actual and necessary expenses incurred in the performance of their~~
32 ~~duties.~~

33 SEC. 18. Section 4540 of the Public Resources Code is
34 repealed.

35 ~~4540. Each committee shall advise the board in the~~
36 ~~establishment of district forest practice rules to govern timber~~
37 ~~operations on timberlands within the district. In advising the board,~~
38 ~~the committee shall not interfere with any of the powers and duties~~
39 ~~of the board. The committees shall consult with, and carefully~~
40 ~~evaluate the recommendations of, the department, concerned~~

1 federal, state and local agencies, educational institutions, civic and
2 public interest organizations, and private organizations and
3 individuals. Each committee shall seek an optimum of interagency
4 cooperation in identification of problems and proposing solutions.

5 SEC. 19. Section 4551.5 of the Public Resources Code is
6 amended to read:

7 4551.5. Rules and regulations shall apply to the conduct of
8 timber operations and shall include, but shall not be limited to,
9 measures for fire prevention and control, for soil erosion control,
10 for site preparation that involves disturbance of soil or burning of
11 vegetation following timber harvesting activities ~~conducted after~~
12 ~~January 1, 1988~~, for water quality and watershed control, for flood
13 control, for stocking, for protection against timber operations which
14 unnecessarily destroy young timber growth or timber productivity
15 of the soil, for prevention and control of damage by forest insects,
16 pests, and disease, for the protection of natural and scenic qualities
17 in special treatment areas identified pursuant to subdivision (b) of
18 Section 30417, and for the preparation of timber harvesting plans.
19 In developing these rules, the board shall solicit and consider
20 recommendations from the department, recommendations from
21 the Department of Fish and Game relating to the protection of fish
22 and wildlife, recommendations from the State Water Resources
23 Control Board and the California regional water quality control
24 boards relating to water quality, recommendations from the State
25 Air Resources Board and local air pollution control districts relating
26 to air pollution control, and recommendations of the California
27 Coastal Commission relating to the protection of natural and scenic
28 coastal zone resources in special treatment areas.

29 SEC. 20. Section 4553 of the Public Resources Code is
30 amended to read:

31 4553. The rules and regulations shall be continuously reviewed
32 and may be revised. During the formulation or revision of ~~such~~
33 *the* rules and regulations, the board shall consult with, and carefully
34 evaluate the recommendations of, the department, ~~the district~~
35 ~~technical advisory committees~~, concerned federal, state, and local
36 agencies, educational institutions, civic and public interest
37 organizations, and private organizations and individuals.

38 SEC. 21. Section 4561 of the Public Resources Code is
39 amended to read:

1 4561. It is the purpose of this section to set forth resource
2 conservation standards for timber operations, and to insure that a
3 cover of trees of commercial species, sufficient to utilize adequately
4 the suitable and available growing space, is maintained or
5 established after timber operations.

6 To that end, the following resource conservation standards define
7 minimum acceptable stocking, and an area covered by a timber
8 harvesting plan shall be classified as acceptably stocked if either
9 of the following conditions exist within five years after completion
10 of timber operations:

11 (a) The area contains an average point count of 300 per acre,
12 except that in areas which the registered professional forester who
13 prepares the timber harvesting plan has determined are site IV
14 classification or lower, the minimum average point count shall be
15 150 per acre. Point count shall be computed as follows:

16 (1) ~~Each~~A countable tree ~~which~~ *that* is not more than four inches
17 in diameter at breast height to count as one.

18 (2) ~~Each~~A countable tree over four inches and not more than
19 12 inches in diameter at breast height to count as three.

20 (3) ~~Each~~A countable tree over 12 inches in diameter at breast
21 height to count as six.

22 (b) (1) The average residual basal area, measured in stems one
23 inch or larger in diameter is at least 85 square feet per acre, except
24 that in areas which the registered professional forester who prepares
25 the timber harvesting plan has determined are site II classification
26 or lower, the minimum average residual basal area shall be 50
27 square feet per acre.

28 ~~The~~

29 (2) ~~The~~ board, on a finding that it is in furtherance of the
30 purposes of this chapter may encourage selection, shelterwood, or
31 other types of management of timber where consistent with the
32 biological requirements of the tree species and may regulate the
33 size and shape of areas in which even-age management of timber
34 is utilized.

35 ~~Timberland harvested between January 1, 1974, and the adoption~~
36 ~~of stocking standards pursuant to this chapter shall be classified as~~
37 ~~adequately stocked if, as a result of stocking which has taken place~~
38 ~~subsequent to such harvest, the minimum standards specified in~~
39 ~~this section are met.~~

40 ~~Rock~~

1 (3) *Rock* outcroppings and other areas not normally bearing
2 timber shall not be considered as requiring stocking and are exempt
3 from ~~such~~ *the stocking* provisions.

4 SEC. 22. Section 4561.2 of the Public Resources Code is
5 repealed.

6 ~~4561.2. All stocking requirements under provisions of law~~
7 ~~which were in existence on or before January 1, 1974, shall remain~~
8 ~~in full force and effect for timberland which was harvested prior~~
9 ~~to January 1, 1974.~~

10 SEC. 23. Section 4561.3 of the Public Resources Code is
11 repealed.

12 ~~4561.3. Notwithstanding the provisions of Section 4561, on~~
13 ~~any commercial timberlands which the department has determined~~
14 ~~do not meet the minimum acceptable stocking standards prior to~~
15 ~~any timber harvest activities which may take place on such lands~~
16 ~~between the effective date of this chapter and the adoption of~~
17 ~~permanent stocking standards pursuant to Section 4561.5, an area~~
18 ~~shall be classified as acceptably stocked if, as a result of restocking~~
19 ~~which has taken place subsequent to such harvest, it contains at~~
20 ~~least five countable trees for each tree which has been harvested.~~

21 SEC. 24. Section 4562.7 of the Public Resources Code is
22 amended to read:

23 4562.7. The purpose of this section is to ensure the protection
24 of beneficial uses that are derived from the physical form, water
25 quality, and biological capability of streams. To these ends, in
26 addition to the rules provided for in Section 4551.5, the board shall
27 adopt rules for control of timber operations ~~which~~ *that* will result
28 or threaten to result in unreasonable effects on the beneficial uses
29 of the waters of the state. The rules shall include rules for:

30 (a) The disposal of petroleum products, sanitary wastes, refuse,
31 and cleaning agents in proper dumps or waste treatment facilities
32 to prevent them from entering streams.

33 (b) Construction of logging road and tractor trail stream
34 crossings to assure substantially unimpaired flow of water and to
35 assure free passage of fish both upstream and downstream.

36 (c) Minimizing damage to unmerchantable streamside
37 vegetation, particularly hardwood trees.

38 (d) Minimizing damage to streambeds or banks resulting from
39 skidding or hauling logs through, across, or into streams, by
40 operating tractors or other heavy equipment in or near streambeds,

1 or by construction of log landings or logging roads in or near the
2 channels of streams.

3 (e) Control of slash, debris, fill, and side cast earth, resulting
4 from timber operations, which may be carried into streams.

5 (f) Minimizing the effects of erosion on watercourses and lakes
6 by ~~all~~ *both* of the following:

7 (1) Installation and maintenance of drainage facilities and soil
8 stabilization treatments as required on timber operations.

9 (2) Planned abandonment of roads and landings.

10 ~~(3) Maintenance of installed drainage facilities and soil~~
11 ~~stabilization treatments on skid trails, roads, and landings for a~~
12 ~~period of at least one year after filing of the work completion~~
13 ~~report, provided the report is approved.~~

14 SEC. 25. Section 4583.2 of the Public Resources Code is
15 amended to read:

16 4583.2. The registered professional forester who prepared the
17 timber harvesting plan and or any other registered professional
18 forester who is employed by the owner or operator, shall report to
19 the owner and operator if there are deviations of any sort from the
20 plan ~~which~~ *that* in ~~his~~ *the forester's* judgment threaten the
21 attainment of the resource conservation standards or other
22 regulations promulgated pursuant to this chapter.

23 SEC. 26. Section 4583.5 of the Public Resources Code is
24 amended to read:

25 4583.5. If the board finds that the registered professional
26 forester has made ~~any~~ *a* material misstatement in the filing of ~~any~~
27 *a* timber harvesting plan or report ~~under~~ *pursuant to* this chapter,
28 it shall take disciplinary action against ~~him~~ *the forester* as provided
29 under Section 775.

30 SEC. 27. Section 4584 of the Public Resources Code is
31 amended to read:

32 4584. Upon determining that the exemption is consistent with
33 the purposes of this chapter, the board may exempt from this
34 chapter, or portions ~~thereof~~ *of this chapter*, a person engaged in
35 forest management whose activities are limited to any of the
36 following:

37 (a) The cutting or removal of trees for the purpose of
38 constructing or maintaining a right-of-way for utility lines.

(b) The planting, growing, nurturing, shaping, shearing, removal, or harvest of immature trees for Christmas trees or other ornamental purposes or minor forest products, including fuelwood.

(c) The cutting or removal of dead, dying, or diseased trees of any size.

(d) Site preparation.

(e) Maintenance of drainage facilities and soil stabilization treatments.

(f) Timber operations on land managed by the Department of Parks and Recreation.

(g) (1) The one-time conversion of less than three acres to a nontimber use. A person, whether acting as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, shall not obtain more than one exemption pursuant to this subdivision in a five-year period. If a partnership has as a member, or if a corporation or other legal entity has as an officer or employee, a person who has received this exemption within the past five years, whether as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, then that partnership, corporation, or other legal entity is not eligible for this exemption. "Person," for purposes of this subdivision, means an individual, partnership, corporation, or other legal entity.

(2) (A) Notwithstanding Section 4554.5, the board shall adopt regulations that become effective and operative on or before July 1, 2002, and do all of the following:

(i) Identify the required documentation of a bona fide intent to complete the conversion that an applicant will need to submit in order to be eligible for the exemption in paragraph (1).

(ii) Authorize the department to inspect the sites approved in conversion applications that have been approved on or after January 1, 2002, in order to determine that the conversion was completed within the two-year period described in subparagraph (B) of paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of the California Code of Regulations.

(iii) Require the exemption ~~under~~ *pursuant to* this subdivision to expire if there is a change in timberland ownership. The person who originally submitted an application for an exemption ~~under~~ *pursuant to* this subdivision shall notify the department of a change

1 in timberland ownership on or before five calendar days after a
2 change in ownership.

3 (iv) The board may adopt regulations allowing a waiver of the
4 five-year limitation described in paragraph (1) upon finding that
5 the imposition of the five-year limitation would impose an undue
6 hardship on the applicant for the exemption. The board may adopt
7 a process for an appeal of a denial of a waiver.

8 (B) The application form for the exemption pursuant to
9 paragraph (1) shall prominently advise the public that a violation
10 of the conversion exemption, including a conversion applied for
11 in the name of someone other than the person or entity
12 implementing the conversion in bona fide good faith, is a violation
13 of this chapter and penalties may accrue up to ten thousand dollars
14 (\$10,000) for each violation pursuant to Article 8 (commencing
15 with Section 4601).

16 (h) Easements granted by a right-of-way construction agreement
17 administered by the federal government if any timber sales and
18 operations within or affecting these areas are reviewed and
19 conducted pursuant to the National Environmental Policy Act of
20 1969 (42 U.S.C. Sec. 4321 et seq.).

21 ~~(i) The cutting, removal, or sale of timber or other solid wood~~
22 ~~forest products from the species *Taxus brevifolia* (Pacific yew);~~
23 ~~if the known locations of any stands of this species three inches~~
24 ~~and larger in diameter at breast height are identified in the~~
25 ~~exemption notice submitted to the department. Nothing in this~~
26 ~~subdivision is intended to authorize the peeling of bark from, or~~
27 ~~the cutting or removal of, *Taxus brevifolia* within a watercourse~~
28 ~~and lake protection zone, special treatment area, buffer zone, or~~
29 ~~other area where timber harvesting is prohibited or otherwise~~
30 ~~restricted pursuant to board rules.~~

31 (j)

32 (i) (1) The cutting or removal of trees in compliance with
33 Sections 4290 and 4291 that eliminates the vertical continuity of
34 vegetative fuels and the horizontal continuity of tree crowns for
35 the purpose of reducing flammable materials and maintaining a
36 fuel break for a distance of not more than 150 feet on each side
37 from an approved and legally permitted structure that complies
38 with the California Building Standards Code, when that cutting or
39 removal is conducted in compliance with this subdivision. For
40 purposes of this subdivision, an “approved and legally permitted

1 structure” includes only structures that are designed for human
2 occupancy and garages, barns, stables, and structures used to
3 enclose fuel tanks.

4 (2) (A) The cutting or removal of trees pursuant to this
5 subdivision is limited to cutting or removal that will result in a
6 reduction in the rate of fire spread, fire duration and intensity, fuel
7 ignitability, or ignition of the tree crowns and shall be in
8 accordance with any regulations adopted by the board pursuant to
9 this section.

10 (B) Trees shall not be cut or removed pursuant to this
11 subdivision by the clearcutting regeneration method, by the seed
12 tree removal step of the seed tree regeneration method, or by the
13 shelterwood removal step of the shelterwood regeneration method.

14 (3) (A) Surface fuels, including logging slash and debris, low
15 brush, and deadwood, that could promote the spread of wildfire
16 shall be chipped, burned, or otherwise removed from all areas of
17 timber operations within 45 days from the date of commencement
18 of timber operations pursuant to this subdivision.

19 (B) (i) All surface fuels that are not chipped, burned, or
20 otherwise removed from all areas of timber operations within 45
21 days from the date of commencement of timber operations may
22 be determined to be a nuisance and subject to abatement by the
23 department or the city or county having jurisdiction.

24 (ii) The costs incurred by the department, city, or county, as the
25 case may be, to abate the nuisance upon ~~any~~ a parcel of land subject
26 to the timber operations, including, but not limited to, investigation,
27 boundary determination, measurement, and other related costs,
28 may be recovered by special assessment and lien against the parcel
29 of land by the department, city, or county. The assessment may
30 be collected at the same time and in the same manner as ordinary
31 ad valorem taxes, and shall be subject to the same penalties and
32 the same procedure and sale in case of delinquency as is provided
33 for ad valorem taxes.

34 (4) All timber operations conducted pursuant to this subdivision
35 shall conform to applicable city or county general plans, city or
36 county implementing ordinances, and city or county zoning
37 ordinances. This paragraph does not authorize the cutting, removal,
38 or sale of timber or other solid wood forest products within an area
39 where timber harvesting is prohibited or otherwise restricted
40 pursuant to the rules or regulations adopted by the board.

1 (5) (A) The board shall adopt regulations, initially as emergency
2 regulations in accordance with subparagraph (B), that the board
3 considers necessary to implement and to obtain compliance with
4 this subdivision.

5 (B) The emergency regulations adopted pursuant to
6 subparagraph (A) shall be adopted in accordance with the
7 Administrative Procedure Act (Chapter 3.5 (commencing with
8 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
9 Code). The adoption of emergency regulations shall be deemed to
10 be an emergency and necessary for the immediate preservation of
11 the public peace, health, and safety, or general welfare.

12 ~~(k)~~

13 (j) (1) Until January 1, 2013, the harvesting of trees, limited to
14 those trees that eliminate the vertical continuity of vegetative fuels
15 and the horizontal continuity of tree crowns, for the purpose of
16 reducing the rate of fire spread, duration and intensity, fuel
17 ignitability, or ignition of tree crowns.

18 (2) The board may authorize an exemption pursuant to paragraph
19 (1) only if the tree harvesting will decrease fuel continuity and
20 increase the quadratic mean diameter of the stand, and the tree
21 harvesting area will not exceed 300 acres.

22 (3) The notice of exemption, which shall be known as the Forest
23 Fire Prevention Exemption, may be authorized only if all of the
24 conditions specified in paragraphs (4) to (10), inclusive, are met.

25 (4) A registered professional forester shall prepare the notice
26 of exemption and submit it to the director, and include a map of
27 the area of timber operations that complies with the requirements
28 of paragraphs (1), (3), (4), and (7) to (12), inclusive, of subdivision
29 (x) of Section 1034 of Title 14 of the California Code of
30 Regulations.

31 (5) (A) The registered professional forester who submits the
32 notice of exemption shall include a description of the preharvest
33 stand structure and a statement of the postharvest stand stocking
34 levels.

35 (B) The level of residual stocking shall be consistent with
36 maximum sustained production of high-quality timber products.
37 The residual stand shall consist primarily of healthy and vigorous
38 dominant and codominant trees from the preharvest stand. Stocking
39 shall not be reduced below the standards required by any of the
40 following provisions that apply to the exemption at issue:

1 (i) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph
2 (1) of subdivision (a) of Section 913.3 of Title 14 of the California
3 Code of Regulations.

4 (ii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph
5 (1) of subdivision (a) of Section 933.3 of Title 14 of the California
6 Code of Regulations.

7 (iii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph
8 (1) of subdivision (a) of Section 953.3 of Title 14 of the California
9 Code of Regulations.

10 (C) If the preharvest dominant and codominant crown canopy
11 is occupied by trees less than 14 inches in diameter at breast height,
12 a minimum of 100 trees over four inches in diameter at breast
13 height shall be retained per acre for Site I, II, and III lands, and a
14 minimum of 75 trees over four inches in diameter at breast height
15 shall be retained per acre for Site IV and V lands.

16 (6) (A) The registered professional forester who submits the
17 notice shall include selection criteria for the trees to be harvested
18 or the trees to be retained. In the development of fuel reduction
19 prescriptions, the registered professional forester should consider
20 retaining habitat elements, where feasible, including, but not
21 limited to, ground level cover necessary for the long-term
22 management of local wildlife populations.

23 (B) All trees that are harvested or all trees that are retained shall
24 be marked or sample marked by or under the supervision of a
25 registered professional forester before felling operations begin.
26 The board shall adopt regulations for sample marking for this
27 section in Title 14 of the California Code of Regulations. Sample
28 marking shall be limited to homogenous forest stand conditions
29 typical of plantations.

30 (7) (A) The registered professional forester submitting the
31 notice, upon submission of the notice, shall provide a confidential
32 archaeology letter that includes all the information required by
33 any of the following provisions that apply to the exemption at
34 issue:

35 (i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)
36 of Section 929.1 of Title 14 of the California Code of Regulations,
37 and include site records if required pursuant to subdivision (g) of
38 that section or pursuant to Section 929.5 of Title 14 of the
39 California Code of Regulations.

1 (ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)
2 of Section 949.1 of Title 14 of the California Code of Regulations,
3 and include site records if required pursuant to subdivision (g) of
4 that section or pursuant to Section 949.5 of Title 14 of the
5 California Code of Regulations.

6 (iii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)
7 of Section 969.1 of Title 14 of the California Code of Regulations,
8 and include site records if required pursuant to subdivision (g) of
9 that section or pursuant to Section 969.5 of Title 14 of the
10 California Code of Regulations.

11 (B) The director shall submit a complete copy of the confidential
12 archaeological letter and two copies of all required archaeological
13 or historical site records to the appropriate Information Center of
14 the California Historical Resource Information System within 30
15 days from the date of notice submittal to the director. Before
16 submitting the notice to the director, the registered professional
17 forester shall send a copy of the notice to Native Americans, as
18 defined in Section 895.1 of Title 14 of the California Code of
19 Regulations.

20 (8) Only trees less than 18 inches in stump diameter, measured
21 at eight inches above ground level, may be removed. However,
22 within 500 feet of a legally permitted structure, or in an area
23 prioritized as a shaded fuel break in a community wildfire
24 protection plan approved by a public fire agency, if the goal of
25 fuel reduction cannot be achieved by removing trees less than 18
26 inches in stump diameter, trees less than 24 inches in stump
27 diameter may be removed if that removal complies with this section
28 and is necessary to achieve the goal of fuel reduction. A fuel
29 reduction effort shall not violate the canopy closure regulations
30 adopted by the board on June 10, 2004, and as those regulations
31 may be amended.

32 (9) (A) This subparagraph applies to areas within 500 feet of
33 a legally permitted structure and in areas prioritized as a shaded
34 fuel break in a community wildfire protection plan approved by a
35 public fire agency. The board shall adopt regulations for the
36 treatment of surface and ladder fuels in the harvest area, including
37 logging slash and debris, low brush, small trees, and deadwood,
38 that could promote the spread of wildfire. The regulations adopted
39 by the board shall be consistent with the standards in the board's
40 "General Guidelines for Creating Defensible Space" described in

1 Section 1299 of Title 14 of the California Code of Regulations.
2 Postharvest standards shall include vertical spacing between fuels,
3 horizontal spacing between fuels, maximum depth of dead ground
4 surface fuels, and treatment of standing dead fuels, as follows:

5 (i) Ladder and surface fuels shall be spaced to achieve a vertical
6 clearance distance of eight feet or three times the height of the
7 postharvest fuels, whichever is the greater distance, measured from
8 the base of the live crown of the postharvest dominant and
9 codominant trees to the top of the surface fuels.

10 (ii) Horizontal spacing shall achieve a minimum separation of
11 two to six times the height of the postharvest fuels, increasing
12 spacing with increasing slope, measured from the outside branch
13 edges of the fuels.

14 (iii) Dead surface fuel depth shall be less than nine inches.

15 (iv) Standing dead or dying trees and brush generally shall be
16 removed. That material, along with live vegetation associated with
17 the dead vegetation, may be retained for wildlife habitat when
18 isolated from other vegetation.

19 (B) This subparagraph applies to all areas not described in
20 subparagraph (A).

21 (i) The postharvest stand shall *not* contain ~~no~~ more than 200
22 trees over three inches in diameter per acre.

23 (ii) Vertical spacing shall be achieved by treating dead fuels to
24 a minimum clearance distance of eight feet measured from the
25 base of the live crown of the postharvest dominant and codominant
26 trees to the top of the dead surface fuels.

27 (iii) All logging slash created by the timber operations shall be
28 treated to achieve a maximum postharvest depth of nine inches
29 above the ground.

30 (C) The standards required by subparagraphs (A) and (B) shall
31 be achieved on approximately 80 percent of the treated area. The
32 treatment shall include chipping, removing, or other methods
33 necessary to achieve the standards. Ladder and surface fuel
34 treatments, for any portion of the exemption area where timber
35 operations have occurred, shall be done within 120 days from the
36 start of timber operations on that portion of the exemption area or
37 by April 1 of the year following surface fuel creation on that
38 portion of the exemption area if the surface fuels are burned.

39 (10) Timber operations shall comply with the requirements of
40 paragraphs (1) to (10), inclusive, of subdivision (b) of Section

1 1038 of Title 14 of the California Code of Regulations. Timber
2 operations in the Lake Tahoe region shall comply instead with the
3 requirements of paragraphs (1) to (16), inclusive, of subdivision
4 (f) of Section 1038 of Title 14 of the California Code of
5 Regulations.

6 (11) After the timber operations are complete, the department
7 shall conduct an onsite inspection to determine compliance with
8 this subdivision and whether appropriate enforcement action should
9 be initiated.

10 SEC. 28. Section 4603 of the Public Resources Code is
11 amended to read:

12 4603. The Attorney General may, on his *or her* own motion
13 or at the request of the board, bring an action to enforce compliance
14 with the rules and regulations of the board and ~~the provisions of~~
15 ~~this chapter.~~

16 SEC. 29. Section 14 of Chapter 1290 of the Statutes of 1989
17 is repealed.

18 ~~SEC. 14. The department shall, on or before January 1, 1998,~~
19 ~~report to the Governor and the Legislature with an evaluation on~~
20 ~~whether the objectives of uneven-aged management and sustained~~
21 ~~yield are being met for each parcel or group of contiguous parcels~~
22 ~~for which a nonindustrial timber management plan has been~~
23 ~~approved pursuant to this act.~~